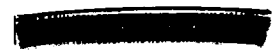


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application No. 78/228,678
Date of Publication: June 15, 2004
Mark: AVIDIAN

EVIDIAN, S.A.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
AVIDIAN, LLC)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION



Assistant of Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

07-08-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Sir:

EVIDIAN, S.A., a corporation organized under the laws of France, having its principal place of business in France, believes it will be damaged by the registration of the mark shown in the above-identified application for AVIDIAN, Serial No. 78/228,678 and hereby opposes registration and requests denial of registration of the mark.

07/13/2004 TSMITH 00000029 78228678

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As grounds for its Notice of Opposition, Evidian, S.A alleges:

1. Opposer, Evidian, S.A (“Opposer”) is a French Corporation, with its principal corporate offices located at Rue Jean Jaurès – BP 68, 78340 LES CLAYES-SOUS-BOIS, France.

2. Opposer, a subsidiary of Groupe Bull, is a worldwide security and service management software company that provides software and hardware to secure user access across the Internet, Intranets, and Extranets, and whose products and services enable customers to successfully deploy and streamline secure e-business and telecommunications strategies.

3. Applicant is Avidian, LLC (“Applicant”), a corporation of the State of Washington, located and doing business at 10850 Garden Place South, Seattle, Washington 98178.

4. On June 15, 2004, the Trademark Official Gazette published Applicant’s Mark AVIDIAN (hereinafter “Applicant’s Mark”) for opposition.

5. Applicant seeks to register Applicant’s Mark for computer software for use in task organization and contact management in the field of business management; computer software for use in integrating and managing contacts, prospects and account, sales and marketing information; computer software for generating and sending personalized global e-mails in Class 9.

6. Applicant seeks to register Applicant’s Mark based on its intent to use the mark in commerce.

7. The filing date of the application for Applicant’s Mark is March 21, 2003.

8. Evidian, S.A. owns the following United States registered trademark for the Mark EVIDIAN (hereinafter “Opposer’s Mark”),

No. 2,710,503, Registered April 29, 2003:

Int’l Class 9 – Electrical and Scientific Apparatus

Computer software used in computer network systems and telecommunication systems for interconnection of internal and external network users and providing user access to multi web and enterprise applications; computer programs used for security in computer networks and telecommunication systems, namely, authentication and enforcement of user access to all legacy, client server, internet and remote applications; computer programs used for automation and reduction of log on time and customizing user access according to user profiles; computer operating programs; computer keyboards; data recorders, both tape and compact disc; optical scanners, computer monitors, computer mice; optical pencils for use with computer monitors; blank, hard and floppy discs; computer printers; computer memory; computers, communications servers and associated computer terminals for transmission of data networks, smart cards encrypted with user identification data, smart card readers, optical readers, network security devices, namely security and management software for information technology IT infrastructure, internet browser software, single sign-on (SSO) communication servers, software used to translate uniform resource locators (URL), web communication servers (hereinafter “Opposer’s Computer Software and Hardware”)

Int’l Class 37 – Construction and Repair

Installation of computer systems and networks. (hereinafter “Opposer’s Systems and Networks Installment Services”)

Int'l Class 38

Telecommunications services, namely, electronic transmission of data and documents by computer terminals for interconnection of internal and external network uses to provide access to multiple web and enterprise applications. (hereinafter "Opposer's Telecommunications Services")

Int'l Class 42 – Miscellaneous Services

Computer services, namely, research and development of software, updating software for others, maintenance and installation of software; consulting services related to computers; and computer software rental and leasing. (hereinafter "Opposer's Computer Services")

9. Opposer's Mark referenced in Paragraph 8 of Opposer's Notice of Opposition is valid and subsisting and Exhibit A attached hereto is a true copy of Opposer's Mark.

10. On information and belief Applicant has not made use of Applicant's Mark prior to the filing date of its application, March 21, 2003.

11. On information and belief, Applicant has not, to date, used Applicant's Mark in commerce.

12. Opposer adopted and commenced use of Opposer's Mark in connection with Opposer's Computer Software and Hardware; Opposer's Systems and Networks Installation Services; Opposer's Telecommunication Services and Opposer's Computer Services at least as early as June 2000.

13. Opposer markets Opposer's Computer Software and Hardware; Opposer's Systems and Networks Installation Services; Opposer's Telecommunication Services and Opposer's Computer Services to, among others, internet service providers;

telecommunications companies; banks and financial institutions and insurance companies; government agencies; the health care industry; manufacturing and high tech companies; service, retail and transportation companies; and telecom manufacturers.

14. EVIDIAN is a famous mark.

15. Through long and continuous global use of the Mark EVIDIAN in commerce, the public has come to associate the Opposer's Mark with Opposer and its products and services. Opposer has adopted and commenced use of Opposer's Mark in connection with Opposer's Computer Software and Hardware; Opposer's Systems and Networks Installment Services; Opposer's Telecommunication Services; and Opposer's Computer Services long prior to the filing of the application for Applicant's Mark and long prior to Applicant's use, if any, of Applicant's Mark.

16. Long prior to March 21, 2003, Opposer marketed Opposer's Computer Software and Hardware; Opposer's Systems and Networks Installment Services, Opposer's Telecommunications Services, and Opposer's Computer Services under Opposer's Mark.

17. Opposer operates a website at www.evidian.com, which provides general information about the company, its products, and services globally via the Internet.

18. The only difference between Opposer's Mark and Applicant's Mark is in the first letter wherein Opposer's Mark begins with an "E" and Applicant's Mark begins with an "A".

19. The computer software marketed or intended to be marketed by Applicant under Applicant's Mark is substantially similar to the computer software marketed by Opposer under Opposer's Mark.

20. The goods and services in connection with which Opposer's Mark is used and the goods identified in the application for Applicant's Mark are either intended to be sold or are sold and/or provided through many of the same channels of trade, to overlapping, if not identical, classes of consumers.

21. Applicant's Mark is visually similar to Opposer's Mark in appearance.

22. Applicant's Mark is aurally similar to Opposer's Mark.

23. Applicant's Mark is confusingly similar to the Opposer's Mark.

24. Applicant's Mark is confusingly similar to Opposer's corporate name and trade name Evidian, S.A.

25. Registration of Applicant's Mark is likely to dilute the value of Opposer's Mark and, thereby, is likely to damage Evidian, S.A.

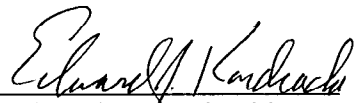
26. Registration of Applicant's Mark is likely to confuse, deceive, or mislead consumers and lead them to believe that there is an affiliation, association, or sponsorship between the products and services of Opposer and those of Applicant, which is likely to damage Opposer.

27. For the above reasons, Opposer believes and asserts that it will be damaged by registration of the published Mark AVIDIAN to Applicant.

WHEREFORE, Opposer prays that this opposition be sustained and that Applicant be denied registration of the mark AVIDIAN as shown by Application No. 78/228,678.

Respectfully submitted,

MILES & STOCKBRIDGE P.C.

By: 
Edward J. Kondracki
Susan A. Richards
Attorneys for the Opposer

MILES & STOCKBRIDGE, P.C.
1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833
Telephone: (703) 610-8626
#9221235v1

Int. Cls.: 9, 37, 38 and 42

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101, 103, 104 and 106

United States Patent and Trademark Office

Reg. No. 2,710,503

Registered Apr. 29, 2003

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

EVIDIAN

EVIDIAN, S.A. (FRANCE CORPORATION), FORMERLY BULLSOFT S.A.

RUE JEAN-JAURES B.P. 68

LES CLAYES SOUS BOIS 78340, FRANCE

FOR: COMPUTER SOFTWARE USED IN COMPUTER NETWORK SYSTEMS AND TELECOMMUNICATION SYSTEMS FOR INTERCONNECTION OF INTERNAL AND EXTERNAL NETWORK USERS AND PROVIDING USER ACCESS TO MULTI WEB AND ENTERPRISE APPLICATIONS; COMPUTER PROGRAMS USED FOR SECURITY IN COMPUTER NETWORKS AND TELECOMMUNICATION SYSTEMS, NAMELY, AUTHENTICATION AND ENFORCEMENT OF USER ACCESS TO ALL LEGACY, CLIENT SERVER, INTERNET AND REMOTE APPLICATIONS; COMPUTER PROGRAMS USED FOR AUTOMATION AND REDUCTION OF LOG ON TIME AND CUSTOMIZING USER ACCESS ACCORDING TO USER PROFILES; COMPUTER OPERATING PROGRAMS; COMPUTER KEYBOARDS; DATA RECORDERS, BOTH TAPE AND COMPACT DISC; OPTICAL SCANNERS, COMPUTER MONITORS, COMPUTER MICE; OPTICAL PENCILS FOR USE WITH COMPUTER MONITORS; BLANK, HARD AND FLOPPY DISCS; COMPUTER PRINTERS; COMPUTER MEMORY; COMPUTERS, COMMUNICATIONS SERVERS AND ASSOCIATED COMPUTER TERMINALS FOR TRANSMISSION OF DATA NETWORKS, SMART CARDS ENCRYPTED WITH USER IDENTIFICATION DATA, SMART CARD READERS, OPTICAL READERS, NETWORK SECURITY DEVICES, NAMELY SECURITY AND MANAGEMENT SOFTWARE FOR INFORMATION TECHNOLOGY IT INFRASTRUCTURE, INTERNET BROWSER SOFTWARE, SINGLE SIGN-ON (SSO) COMMUNICATION SERVERS, SOFTWARE USED TO TRANSLATE UNIFORM RESOURCE LOCATORS (URL), WEB COMMUNICATION SERVERS

AND USER SERVERS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 6-30-2000; IN COMMERCE 6-30-2000.

FOR: INSTALLATION OF COMPUTER SYSTEMS AND NETWORKS, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

FIRST USE 6-30-2000; IN COMMERCE 6-30-2000.

FOR: TELECOMMUNICATIONS SERVICES, NAMELY, ELECTRONIC TRANSMISSION OF DATA AND DOCUMENTS BY COMPUTER TERMINALS FOR INTERCONNECTION OF INTERNAL AND EXTERNAL NETWORK USERS TO PROVIDE ACCESS TO MULTIPLE WEB AND ENTERPRISE APPLICATIONS, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 6-30-2000; IN COMMERCE 6-30-2000.

FOR: COMPUTER SERVICES, NAMELY, RESEARCH AND DEVELOPMENT OF SOFTWARE, UPDATING SOFTWARE FOR OTHERS, MAINTENANCE AND INSTALLATION OF SOFTWARE; CONSULTING SERVICES RELATED TO COMPUTERS; AND COMPUTER SOFTWARE RENTAL AND LEASING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 6-30-2000; IN COMMERCE 6-30-2000.

PRIORITY CLAIMED UNDER SEC. 44(D) ON FRANCE APPLICATION NO. 003030853, FILED 5-26-2000, REG. NO. 3030853, DATED 5-26-2000, EXPIRES 5-26-2010.

SER. NO. 76-171,130, FILED 11-27-2000.

WENDY GOODMAN, EXAMINING ATTORNEY

Int. Cls.: 9, 37, 38 and 42

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101, 103, 104
and 106

United States Patent and Trademark Office

Reg. No. 2,710,503

Int. Cls.: 9, 37, 38 and 42

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101,
103, 104 and 106

United States Patent and Trademark Office

Corrected

Reg. No. 2,710,503

Registered Apr. 29, 2003

OG Date Nov. 4, 2003

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

EVIDIAN, S.A. (FORMERLY BULLSOFT S.A.)
RUE JEAN-JAURES
LES CLAYES SOUS BOIS

EVIDIAN

FOR: COMPUTER NETWORK SYSTEMS AND TELECOMMUNICATION SYSTEMS USED FOR INTERCONNECTION OF INTERNAL AND EXTERNAL NETWORK USERS AND PROVIDING USER ACCESS TO MULTI WEB AND ENTERPRISE APPLICATIONS; COMPUTER PROGRAMS USED FOR SECURITY IN COMPUTER NETWORKS AND TELECOMMUNICATION SYSTEMS, NAMELY, AUTHENTICATION AND ENFORCEMENT OF USER ACCESS TO ALL LEGACY, CLIENT SERVER, INTERNET AND REMOTE APPLICATIONS; COMPUTER PROGRAMS USED FOR AUTOMATION AND REDUCTION OF LOG ON TIME AND CUSTOMIZING USER ACCESS ACCORDING TO USER PROFILES; COMPUTER OPERATING PROGRAMS; COMPUTER KEYBOARDS; DATA RECORDERS, BOTH TAPE AND COMPACT DISC; OPTICAL SCANNERS, COMPUTER MONITORS, COMPUTER MICE; OPTICAL PENCILS FOR USE WITH COMPUTER MONITORS; BLANK, HARD AND FLOPPY DISCS; COMPUTER PRINTERS; COMPUTER MEMORY; COMPUTERS, COMMUNICATIONS SERVERS AND ASSOCIATED COMPUTER TERMINALS FOR TRANSMISSION OF DATA NETWORKS, SMART CARDS ENCRYPTED WITH USER IDENTIFICATION DATA, SMART CARD READERS, OPTICAL READERS, NETWORK SECURITY DEVICES, NAMELY SECURITY AND MANAGEMENT SOFTWARE FOR INFORMATION TECHNOLOGY IT INFRASTRUCTURE, INTERNET BROWSER SOFTWARE, SINGLE SIGN-ON (SSO) COMMUNICATION SERVERS, SOFTWARE USED TO TRANSLATE UNIFORM RESOURCE LOCATORS (URL), WEB COMMUNICATION SERVERS (AND USER SERVERS), IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

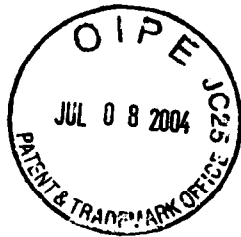
EVIDIAN, S.A. (FRANCE CORPORATION), FORMERLY BULLSOFT S.A., RUE JEAN-JAURES B.P. 68 LES CLAYES SOUS BOIS 78340, FRANCE
PRIORITY CLAIMED UNDER SEC. 44(D) ON FRANCE APPLICATION NO. 003030853, FILED 5-26-2000, REG. NO. 3030853, DATED 5-26-2000, EXPIRES 5-26-2010.

FOR: COMPUTER SOFTWARE USED IN COMPUTER NETWORK SYSTEMS AND TELECOMMUNICATION SYSTEMS FOR INTERCONNECTION OF INTERNAL AND EXTERNAL NETWORK USERS AND PROVIDING USER ACCESS TO MULTI WEB AND ENTERPRISE APPLICATIONS; COMPUTER PROGRAMS USED FOR SECURITY IN COMPUTER NETWORKS AND TELECOMMUNICATION SYSTEMS, NAMELY, AUTHENTICATION AND ENFORCEMENT OF USER ACCESS TO ALL LEGACY, CLIENT SERVER, INTERNET AND REMOTE APPLICATIONS; COMPUTER PROGRAMS USED FOR AUTOMATION AND REDUCTION OF LOG ON TIME AND CUSTOMIZING USER AC-

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In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Nov. 4, 2003.



Attorney Docket No. T3264-906730

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application No. 78/228,678
Date of Publication: June 15, 2004
Mark: AVIDIAN

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EVIDIAN, S.A.)
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Opposer,)
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v.)
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AVIDIAN, LLC)
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Applicant.)

Opposition No. _____

Commissioner for Trademarks
U.S. Patent and Trademark Office
2900 Crystal Drive
Arlington, Virginia 22202-3514

TRANSMITTAL LETTER

Sir:

Please find attached hereto the following in regard to the above-identified
application:

1. Notice of Opposition registration with Exhibit A:
2. The firm's check in the amount of \$300.00; and
3. This firm's postcard which we kindly ask that you date stamp to acknowledge receipt of the above-identified items.



07-08-2004

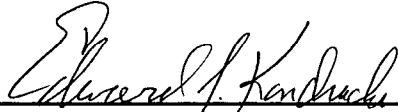
U.S. Patent & TMO/TM Mail Rpt Dt. #22

Any fees associated with this proceeding, including the fee for the filing of the Notice of Opposition, should be charged to Opposer's Deposit Account. If the Commissioner should determine that any fee(s) are required in connection with this proceeding, the Trademark Office is hereby authorized to charge any deficiency or credit any overpayment to the Miles & Stockbridge Deposit Account No. 50-1165.

If there are any questions regarding this matter, the undersigned may be contacted at the telephone number indicated below.

Respectfully submitted,

Date: 7/8/04


Edward J. Kondracki
Miles & Stockbridge, P.C.
1751 Pinnacle Drive
Suite 500
McLean, Virginia 22102-3833
(703) 903-9000